

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
STELLA M. LEVEA, JAMES P. MASAT,)
)
Defendants.)

4:10CR3129

MEMORANDUM AND ORDER

The defendants have moved to continue the trial set to commence on June 11, 2012. This four-week trial setting was ordered on November 28, 2011 (filing no. [48](#)), and the case has been pending since December 14, 2010. (Filing No. [1](#)). In preparation for this trial, the government has been working toward serving approximately 45 witness subpoenas, and these efforts began at least as early as mid-March.

Defendants Levea and Masat argue the case should be continued to August of 2012 for the following reasons:

- 1) A four-week trial beginning on June 11 will have a serious negative impact on the defendants' employer, which was itself a victim of defendants' alleged criminal behavior;
- 2) New witness statements were recently disclosed by the government, and defendants Levea and Mast need additional time to consider and formulate a defense to those statements;
- 3) Defendants Levea and Masat were recently advised that a co-defendant, Kenneth Mottin, has entered into a plea agreement and is now cooperating with the government; and
- 4) Based on newly discovered information, the government may indict defendants Levea and Masat on other charges after the trial of this case.

The trial, set over four months ago, remains four weeks away. The court's docket is a matter of public record, and the trial setting appears in bold print in the docket text. Based on the pretrial services report, defendant's employer knew of the current charges from the outset of this case (See

filing no. 16). Therefore, the defendants' employer either knew, or with reasonable investigation, should have known of the June 11 trial setting. Although the employer claims negative press over the trial will impact the employer's ability to compete for July 1 business prospects, its competitors have had online access to information indicating Levea and Masat have been indicted for over a year. See, e.g., <http://nebraska.watchdog.org/tag/stella-levea/>, <http://www.firstamericansfraud.com/>, <http://www.insurancejournal.com/news/midwest/2009/01/23/97194.htm>, <http://www.insurancejournal.com/news/midwest/2009/03/09/98495.htm> and www.ndbf.ne.gov/press/First-Americans-Insurance-Service.pdf, all located in less than a minute through a Google search.

Receiving additional witness statements and being apprised that a co-defendant is now cooperating, particularly when this information is disclosed four weeks before the trial, does not justify continuing the trial. Moreover, the fact that the government may later indict the defendants on different charges based on newly discovered information does not warrant continuing the current trial based on charges filed over 18 months ago.

Accordingly,

IT IS ORDERED:

- 1) The government's objection, (filing no. 54), is sustained, and the defendants' motion to continue, (filing 52), is denied.
- 2) The four-week trial of this case remains set to commence on June 11, 2012.

DATED this 15th day of May, 2012.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge